

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, NOVEMBER 15, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of November 15, 2006, was called to order by Mayor Hitchcock at 6:02 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, Deputy City Manager Krueger, City Attorney Schwabauer, City Clerk Johl, Public Works Director Prima, and Electric Utility Director Morrow

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Conference with Blair King, City Manager, and Jim Krueger, Deputy City Manager (Acting Labor Negotiators), regarding Lodi City Mid-Management Association and International Brotherhood of Electrical Workers pursuant to Government Code §54957.6
- b) Actual Litigation: Government Code §54956.9(a); One Case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Actual Litigation: Government Code §54956.9(a); One Case; People of the State of California and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 ADJOURN TO CLOSED SESSION

At 6:02 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:01 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:11 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was discussion only, and Item C-2 (b) was not discussed.

In regard to Item C-2 (c), settlement direction was provided.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of November 15, 2006, was called to order by Mayor Hitchcock at 7:11 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. INVOCATION

The invocation was given by Pastor Tim Pollock, The Home Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 Presentations – None

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Johnson, Mounce second, unanimously approved the following items hereinafter set forth:

- E-1 Claims were approved in the amount of \$5,697,223.92.
- E-2 The minutes of October 31, 2006 (Shirtsleeve Session), November 1, 2006 (Regular Meeting), November 7, 2006 (Shirtsleeve Session), and November 8, 2006 (Special Meeting) were approved as written.
- E-3 Approved the plans and specifications and authorized advertisement for bids for Water Well 28 pump and motor and site improvements.
- E-4 Adopted Resolution No. 2006-199 awarding the Domestic Outfall Sewer Pipeline Condition Assessment Project to J.F. Pacific Liners, Inc., of Vacaville, California, in the amount of \$47,494.34.
- E-5 Adopted Resolution No. 2006-200 accepting the improvements under "Asphalt Rubber Cape Seal, Various Streets, 2006" contract.
- E-6 Received notification of Municipal Service Center Compressed Natural Gas Expansion Project Contract Change Order.
- E-7 Approved Task Order with RMC Water and Environment for preparation of the City of Lodi Recycled Water Master Plan.
- E-8 Adopted Resolution No. 2006-201 authorizing the submittal of applications for Safe Routes to School grants to the California Department of Transportation and authorizing the City Manager to execute the grant applications.
- E-9 Adopted Resolution No. 2006-202 accepting \$122,265 from San Joaquin County via the State of California's Supplemental Law Enforcement Services Fund.
- E-10 Adopted Resolution No. 2006-203 authorizing the City Manager to file claim for 2006-07 Transportation Development Act Funds in the amount of \$3,536,183 from Local Transportation Fund and \$40,785 from State Transit Assistance.
- E-11 Approved the Stockton Fire Department Training Agreement and directed the City Manager to execute the agreement.
- E-12 Adopted Resolution No. 2006-204 authorizing the City Manager and Electric Utility Director to procure energy and/or natural gas to reduce Electric Utility Department's open position (energy not fully procured on an advanced basis) for fiscal year 2007-08 in accordance with the City of Lodi Energy Risk Management Policies at an amount not to exceed \$25 million.
- E-13 Adopted Resolution No. 2006-205 authorizing the City of Lodi to endorse the California Municipal Utilities Association's principles addressing greenhouse gas reduction goals.
- E-14 Adopted Resolution No. 2006-206 authorizing the City Manager to sign a Letter of Agreement between the City of Lodi and International Brotherhood of Electrical Workers Local 1245 related to rubber glove premium and contract workers.
- E-15 Accepted the status report regarding protest of Downtown Lodi Business Partnership assessment.

- E-16 Adopted Resolution No. 2006-207 approving the bylaws for the Greater Lodi Area Youth Commission.
 - E-17 Adopted Resolution No. 2006-208 approving Year 2006 amendments to Conflict of Interest Code (Government Code §87306.5).
 - E-18 Set public hearing for November 29, 2006, to consider a General Plan amendment and Sphere of Influence amendment to establish an agriculture/greenbelt.
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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Ken Owen spoke in favor of the "Christ in Christmas" campaign and provided information to the City Council regarding the same.
- Chuck Easterling urged the City Council to enter a float in the Parade of Lights and/or support an entry. He also stated Bill and Carol Meehleis will be the grand marshals of the parade.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hansen stated he appreciated the citizens' vote of confidence in his reelection and provided general comments about election results. He also reported on the Northern California Power Agency meeting, stating the organization worked on the goals and strategic plan for 2007. Mr. Hansen suggested the City should be competitive in obtaining funds as a result of the passage of Measure K and the State Propositions.
- Council Member Mounce requested a staff presentation regarding a potential community improvement district on the east side.
- Mayor Hitchcock echoed Council Member Hansen's comment on reelection, congratulated Council Member Elect Katzakian, and inquired about apportionment through residences. City Manager King stated additional areas for equitable assessments could be evaluated in another presentation as the original Shirtsleeve presentation regarding the water assessment was based on limited facts.
- Council Member Beckman suggested the City research privatizing; whereby, a private company would build and own the water facility.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King described the new technology in Carnegie Forum and stated the next Shirtsleeve Session would include a legislative update and a presentation regarding the Rail Commission study.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider the following:
 - a) Certify the Lodi Annexation Environmental Impact Report as adequate California Environmental Quality Act analysis for the Southwest Gateway Project
 - b) Approve the Southwest Gateway Project, which includes an annexation, pre-zoning, Development Agreement, and amendment to the Bicycle Transportation Master Plan to incorporate 305 acres into the City of Lodi to allow construction of 1,230 dwelling units, 5 neighborhood/community parks, and a public elementary school on the west side of Lower Sacramento Road, south of Kettleman Lane, north of Harney Lane (including 565 and 603 East Harney Lane)

Including a City initiated request for the "other annexation areas" (48 acres) for annexation, General Plan amendment, and pre-zoning to avoid creation of a County island *NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31*

Mayor Hitchcock stated she was advised that she may have a conflict with the project and requested City Attorney Schwabauer provide clarification regarding the same.

City Attorney Schwabauer stated he is not certain of Mayor Hitchcock's conflict but recommends abstention because there is not an ample amount of time to perform a complete conflict of interest analysis prior to the project being considered.

Mayor Hitchcock turned the meeting over to Mayor Pro Tempore Johnson and left the Council Chambers.

Council Member Hansen, Council Member Mounce, Council Member Beckman, and Mayor Pro Tempore Johnson disclosed their conversation with Brian Jungeblut regarding a buffer zone and stated there were no other disclosures since the matter was last considered.

Lynette Dias of LSA provided a presentation regarding the Southwest Gateway Project. Ms. Dias clarified that staff's recommendation pertains to the Environmental Impact Report (EIR) as it relates to the Southwest Gateway Project only. Specific topics of discussion included, but were not limited to, overall project description, annexation of 307 acres, development of project, land use plan, requested approvals, subsequent discretionary approvals, annexation areas, the General Plan amendment, pre-zoning, Bicycle Master Plan amendment, recommended actions on the EIR, Planning Commission recommendation, project entitlements, and staff recommendation as outlined in the staff report (filed).

City Manager King provided an overview of the development agreement, the benefits to the City including the construction of DeBenedetti Park, as outlined in the staff report. Mr. King also provided an overview of the different options that are available to the Council in relation to the development agreement.

City Attorney Schwabauer discussed the addendum to the development agreement. He stated he received a proposed settlement agreement between Citizens for Open Government (COG), the City of Lodi, and Frontier Community Builders (FCB). Mr. Schwabauer stated the agreement was negotiated exclusively between COG and FCB but it must be incorporated into the development agreement. He stated the Council does have the option to not accept the agreement, which will prevent the settlement agreement from taking effect. Mr. Schwabauer reviewed the revised terms of the agreement including those associated with permanent easements for agricultural uses, mitigation measures for acreage, notification requirements, compliance with the Green Builder program, pedestrian and bicycle infrastructure, property rehabilitation, affordable housing requirements, and water supply. He also reviewed the procedure to incorporate the settlement agreement as an exhibit to the development agreement.

Council Member Beckman inquired about the County ordinance. Mr. Schwabauer reviewed the requirements regarding agricultural uses for mitigation measures as outlined in the Blue Sheet (filed) provided to the Council and stated minimum standards must be met regardless of the County's requirements.

Council Member Hansen inquired about the concept of the bicycle area. Community Development Director Hatch stated it was based on the master plan.

Council Member Hansen inquired about the Planning Commission recommendation regarding LU-1. Ms. Dias stated the intent of the mitigation measure is to recognize areas immediately next to agricultural areas that need special treatment and they are generally intended to apply to public areas and fencing.

Council Member Hansen asked if there is anything that was not included in the exhibit. Mr. Schwabauer replied no.

Council Member Hansen inquired about traffic mitigation. Public Works Director Prima stated Public Works does not have any problems with the EIR.

Council Member Mounce inquired about bringing the existing properties into the project. Ms. Dias stated the two properties are only affected by annexation.

Council Member Mounce inquired about the anticipated road widening. City Manager King stated Public Works will work on the design of Harney Lane and the applicant is required to vote in favor of a benefit assessment per the development agreement. He stated the hope is to construct a reasonable roadway for everyone.

Mayor Pro Tempore Johnson asked if the agreement was similar to Reynolds Ranch. City Manager King stated the biggest difference is the Delta area.

Mayor Pro Tempore Johnson asked if Item D in the agreement was redundant. Ms. Dias stated staff recommends landscaping be included so that there is not a focus on walls and berms only.

Discussion ensued between Council Member Hansen, Ms. Dias, and Mr. Hatch regarding two to one mitigation defined in the San Joaquin zone, the zone boundary, the recently approved County mitigation ordinance, and in lieu payment.

Randy Snider, representing property owners in the Southwest Gateway Project area, spoke in favor of the proposed project and requested unanimous approval by the City Council. Council Member Hansen asked if his presentation was made to the Planning Commission. Mr. Snider replied no. Council Member Hansen asked if the property owners had any thoughts on the buffer. Mr. Snider replied they did not.

Tom Doucette, President of FCB, provided an overview of the company, the design team, design features, Western Edge buffer, and development agreement. In addressing Council Member Hansen's concern regarding landscaping for homes behind the project, Mr. Doucette stated it is difficult to monitor individual backyards.

Discussion ensued between Council Member Hansen, Mayor Pro Tempore Johnson, City Manager King, and Ms. Dias regarding designated restroom areas in the parks and related conveniences, maintenance, and safety concerns.

Mayor Pro Tempore Johnson inquired about restaurant basins. Mr. Doucette stated they would be receptive if it is an appropriate improvement.

RECESS

At 9:01 p.m., Mayor Pro Tempore Johnson called for a recess, and the City Council meeting reconvened at 9:13 p.m.

I. PUBLIC HEARINGS (Continued)

I-1 George Gibson, Senior Vice President of FCB, provided an overview of the agriculture (Cont'd.) mitigation measures, specifically discussing topics, including but not limited to, common ground between affected parties, recommendations to the County Board of Supervisors, the \$8,500 per acre fee, Building Industry Association involvement, one to one baseline acreage, the primary Delta zone, levees, and the farming connection.

Council Member Hansen inquired about Section 5. Mr. Gibson stated if the citizens and the City agree, there may be reduced mitigation.

Hearing Opened to the Public

- Ann Cerney spoke in favor of the proposed project, on behalf of COG, provided the development agreement is approved with the settlement agreement as an exhibit. Council Member Hansen and Mayor Pro Tempore Johnson commended Ms. Cerney on her efforts in reaching a settlement with FCB and obtaining the mitigation measures.
- Debbie Jungeblut spoke in opposition of the process to approve the proposed project and Council Member Beckman's participation in the vote for the project based on her concerns regarding his current employer.
- Brian Jungeblut spoke in opposition to the proposed project based on his concerns regarding the lack of bicycle and pedestrian trails as proposed in the original Westside Facilities Master Plan.
- Bill Martin, Executive Director of the Farmland Trust, spoke in favor of the proposed project based on the farmland protection provisions in the development agreement.
- Osha Meserve, attorney for COG, spoke in favor of the proposed project on the condition that the development agreement is approved with the settlement agreement as an exhibit. Ms. Meserve also stated she is preserving for the record the group's concerns regarding bifurcation of the projects, conflict of interest and California Environmental Quality Act issues, separate certification of the EIR, and presentation of the projects to the public as a whole.
- Tom Terpstra spoke in favor of the project based on the consensus with staff and COG, the mitigation measures in LU-1, and staff's analysis of certification of the Southwest project.

Public Portion of Hearing Closed

Council Member Beckman stated he supported the project, would like to see the City control the easement, and wanted to help farmers next to Harney Lane.

Council Member Mounce stated she supported the project, would like to keep the easement provision as is, was concerned with LU-1 mitigation, and would like to see a buffer to include bike and pedestrian paths.

Council Member Hansen inquired about Class 1 bike paths. Ms. Dias and Mr. Hatch provided a detailed definition of the same. Council Member Hansen stated he is not willing to send the project back for the buffer because concerns regarding open space and parks were addressed, the developer and staff will fine tune the traffic mitigation, and the landscape plan can be for common areas.

Council Member Beckman stated a buffer should exist in an area that is open to many eyes so that it does not become an unsafe area.

Mayor Pro Tempore Johnson inquired about the bike path. Mr. Hatch stated it will not abruptly end and it will be covered in more detail in the actual development plans. Mr. Johnson stated he is not sure about the buffer.

RECESS

At 10:30 p.m., Mayor Pro Tempore Johnson called for a recess, and the City Council meeting reconvened at 10:33 p.m.

I. PUBLIC HEARINGS (Continued)

I-1 City Attorney Schwabauer requested the development agreement be approved with the (Cont'd.) exclusion of the Westside project references based on agreement with COG and FCB.

Discussion ensued between the City Council and Ms. Dias regarding Class 1 and Class bicycle paths.

MOTION #1 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2006-209 certifying the final Lodi Annexation EIR (EIR-05-01), adopting Findings and Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program for the Southwest Gateway Annexation Project. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Mayor Hitchcock

MOTION #2 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2006-210 approving and forwarding to San Joaquin Local Area Formation Commission for action the request of Tom Doucette, FCB, for an annexation of the 257.76 project acres, the City initiated annexation for 47.79 contiguous acres, outside of the project area, and the request of two property owners on Harney Lane to annex two acres of land into the corporate limits of the City of Lodi (Southwest Gateway, other annexation areas, and 565 and 603 East Harney Lane). The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Mayor Hitchcock

MOTION #3 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2006-211 approving the City initiated request for an amendment to the land use element of the General Plan to redesignate the other annexation areas to MDR (Medium Density Residential); and the request of two property owners on Harney Lane for an amendment to the land use element of the General Plan to redesignate 565 and 603 East Harney Lane to PR (Planned Residential). The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Mayor Hitchcock

MOTION #4 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, introduced Ordinance No. 1787 approving the request of Tom Doucette, FCB, for pre-zoning to PD (Planned Development) of 257.76 acres (Southwest Gateway Project) and two parcels on Harney Lane (565 and 603 East Harney Lane); and pre-zoning to R-MD (Medium Density Multifamily Residence) on 47.79 acres (other areas to be annexed). The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Mayor Hitchcock

MOTION #5 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, introduced Ordinance No. 1788 adopting a Development Agreement pertaining to the development of 257.76 acres located on the west side of Lower Sacramento Road between Highway 12-Kettleman Lane and Harney Lane (Southwest Gateway) (Development Agreement GM-05-001), to incorporate the Settlement Agreement between the City of Lodi, FCB, and COG as Exhibit K to the agreement. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Mayor Hitchcock

MOTION #6 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2006-212 approving the request of Tom Doucette, FCB, for an amendment to the Bicycle Transportation Master Plan to implement the Southwest Gateway Development Plan. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Johnson
Noes: Council Members – Mounce
Absent: Council Members – None
Abstain: Council Members – Mayor Hitchcock

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider the following:

- a) Certify the Lodi Annexation Environmental Impact Report for the Westside Project
- b) Approve the Westside Development Project, which includes an annexation, pre-zoning, Development Agreement, and amendment to the Bicycle Transportation Master Plan and the Westside Facilities Master Plan to incorporate 151 acres into the City of Lodi to allow construction of 750 dwelling units, 3 neighborhood/community parks, and a public elementary school at 351 East Sargent Road, 70 East Sargent Road, 212 East Sargent Road, and 402 East Sargent Road *NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31*

NOTE: Due to a potential conflict of interest related to the location of their homes to the vicinity of the proposed project, Mayor Hitchcock and Council Member Hansen abstained from discussion and voting on this matter and vacated their seats at the dais.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, continued the subject public hearing to the regular City Council meeting of February 21, 2007. The motion carried by the following vote:

Ayes: Council Members – Beckman, Johnson, and Mounce
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Hansen and Mayor Hitchcock

- I-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider Resolution to Vacate two public utility easements located at 1028 South School Street and 1029 South Sacramento Street.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, continued the subject public hearing to the regular City Council meeting of December 20, 2006. The motion carried by the following vote:

Ayes: Council Members – Beckman, Johnson, and Mounce

Noes: Council Members – None

Absent: Council Members – Hansen and Mayor Hitchcock

J. COMMUNICATIONS

J-1 On recommendation of the City's contract administrator and Human Resources staff, the City Council, on motion of Council Member Mounce, Beckman second, rejected the following claims by the vote shown below:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce

Noes: Council Members – None

Absent: Council Members – Mayor Hitchcock

a) Manual Caldera, date of loss 8/2/06

b) Yvonne Bedsworth, Application for Leave to Present Late Claim, date of loss 3/28/06

J-2 Appointments – None

J-3 Miscellaneous

a) City Clerk Johl presented the cumulative Monthly Protocol Account Report through October 31, 2006.

K. REGULAR CALENDAR

None.

L. ORDINANCES

None.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:50 p.m.

ATTEST:

Randi Johl
City Clerk